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**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation on August 28, 2002

NOTICE OF ACTION TAKEN -- DOCKET OST-2002-13252 -- 2

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: Antonov Design Bureau

Date Filed: August 27, 2002

Relief requested: Exemption pursuant to 49 U.S.C. § 40109 (g) to operate one one-way emergency cabotage cargo charter flight from Wilmington, Ohio, to Mojave, California, August 29-September 3, 2002, using AN-124 aircraft to transport one outsized GE90 aircraft engine plus ancillary equipment to the General Electric Aircraft Engines' test site in the Mojave Desert. Antonov states that the 23,000 lb engine (286 x 151 x 158 inches) is too large to be carried by any freighter aircraft operated by U.S. carriers. Antonov states that the aircraft engine needs to be moved to the Mohave test facility to meet a testing and production schedule prior to installation on a commercial aircraft; and that because of the size of the engine no civil aircraft operated by U.S. carriers are capable of carrying such outsized cargo.

Applicant representative: Robert E. Cohn/Sheryl R. Israel (202) 663-8312

Responsive pleadings: Antonov served its application on those U.S. carriers operating large all-cargo aircraft. Each carrier indicated that it did not have aircraft available to conduct the proposed operation, and that it had no comment or did not oppose grant of the requested authority to Antonov.

Statutory Standards: Under 49 U.S.C. § 40109(g), we may authorize a foreign air carrier to carry commercial traffic between U.S. points (*i.e.*, cabotage traffic) under limited circumstances. Specifically, we must find that the authority is required in the public interest; that because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. § 41102; that all possible efforts have been made to place the traffic on U.S. carriers; and that the transportation is necessary to avoid unreasonable hardship to the traffic involved (an additional required finding, concerning emergency transportation during labor disputes, is not relevant here). For examples of earlier grants of this type, *see, e.g.*, Order 2001-5-23.

DISPOSITION

Action: Approved

Action date: August 28, 2002

Effective dates of authority granted: August 28-September 6, 2002

Basis for approval: We found that the application met all relevant criteria of 49 U.S.C. § 40109(g) for the grant of an exemption of this type and that the grant is required in the public interest. Specifically, we were persuaded that GE's unforeseen need to transport the GE engine for testing and modification prior to installation on an aircraft for commercial service, and the fact that the cargo could not be transported by other modes without causing further disruptions of its testing and production schedule, constituted an emergency not arising in the normal course of business. Moreover, based on the representations of the U.S. carriers, we concluded that no U.S. carrier had aircraft available which could be used to conduct the operation at issue here. We also found that grant of Antonov's request would prevent undue hardship to the cargo and General Electric. Finally, we found that the applicant is qualified to perform its proposed operations (*see, e.g.*, Notice of Action Taken dated August 26, 2002, in Docket OST-96-1454).

Except to the extent exempted/waived, this authority is subject to our standard exemption conditions and to the condition that Antonov comply with an FAA-approved flight routing for the authorized flight.

**Action taken by: Read C. Van de Water
Assistant Secretary of Aviation
and International Affairs**